



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,129	09/16/2003	Allen Fox	08226/1203097-US1	7169

38880 7590 04/25/2006

DARBY & DARBY P.C.  
P.O. BOX 5257  
NEW YORK, NY 10150-6257

EXAMINER

ELISCA, PIERRE E

ART UNIT PAPER NUMBER

3621

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/667,129

Applicant(s)

FOX ET AL.

Examiner

Pierre E. Elisca

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-84 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-84 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This office action is in response to Applicant's RCE filed on 04/06/2006.
2. Claims 1-84 are pending.

***Claim Objections***

3. Claim 1 is objected to because of the following informalities: Claim 1, line 6, Applicant is advised to remove the word "may". Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-82 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Allan et al (U.S. Pat. No. 6,526,456) and Bass et al (U.S Pat. No. 6,744,446) in view of Hornbuckle (U.S. Pat. No. 5,613,089).

As per Claims 1, 4-84 Allan substantially discloses a software product that can be freely distributed while limiting its use to authorized subscribers, the method comprising:

a set of users including identify one or more software products that are rented by users in the set (see., abstract, col 1, lines 4-8, col 4, lines 63-67, col 5, lines 1-15); Authorizing a user in the set to access a software product through the computer network based on whether the software product is identified as a rented software product (see., abstract, col 1, lines 4-8, col 4, lines 63-67, col 5, lines 1-15).

Allan fails to explicitly disclose the step of assigning a virtual container (s) to users. However, Bass discloses a method/apparatus for displaying network (network or online) information to a user connected to a network, and enable a user to configure the network by assigning virtual containers (see., abstract, col 2, lines and 67 and 68, col 3, lines 1-8). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the software rental service of Allan by including the limitation detailed above as taught by Bass because this would improve software rental product.

Allan and Bass to disclose Applicant's newly added limitation wherein said the collection identifying a rental package of a predefined number of the one or more software products. Hornbuckle discloses a system/method for renting computer game software. Each game software package for each different game available for rental is assigned an 8-character package identifier code which is unique to the particular game. Each software package is encrypted with a package key, the package key being the unique package identifier associated with each different game available (see., abstract, col 16, lines 24-62). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Allan and Bass by

including the limitation detailed above as taught by Hornbuckle because this would prevent unauthorized use, copying, vandalism and modification of downloadable data and programs during or after transmission to the target computer.

As per claims 2 and 3, Allan discloses the claimed method of identifying the rented software product in the virtual container for a rental period (see., col 9, lines 24-37).

#### RESPONSE TO ARGUMENTS

6. Applicant's arguments filed on 04/06/2006 have been fully considered but they are moot in view of new ground (s) of rejection.

#### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571 272 6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Pierre Eddy Elisca**

**Primary Patent Examiner**

**April 18, 2006**